

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1906-0120P	
	Application Number 09/786,352-Conf. #8286	Filed March 13, 2001	
	First Named Inventor Miroslaw Z. BOBER		
	Art Unit 2624	Examiner G. M. Desire	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>29,680</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> </div> <div style="width: 50%; text-align: center;"> <p><i>Penny Caudle</i> <i>Penny Caudle</i> _____ Signature <i>Reg #46,607</i></p> <p><i>Michael K. Mutter</i> _____ Typed or printed name</p> <p>_____ (703) 205-8000 Telephone number</p> <p>_____ May 19, 2008 Date</p> </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below".</p>			
<input type="checkbox"/> *Total of <u>1</u> forms are submitted.			

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Miroslaw Z. BOBER

Application No.: 09/786,352

Confirmation No.: 8286

Filed: March 13, 2001

Art Unit: 2624

For: METHOD, APPARATUS, COMPUTER
PROGRAM, COMPUTER SYSTEM AND
COMPUTER-READABLE STORAGE FOR
REPRESENTING AND SEARCHING FOR
AN OBJECT IN AN IMAGE

Examiner: G. M. Desire

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In addition to the Notice of Appeal which is being concurrently filed, Applicants respectfully request a Pre-Appeal Brief Conference to consider the issues raised in the Office Action dated November 20, 2007.

REMARKS IN SUPPORT OF PRE-APPEAL REVIEW

In paragraph 8 of the final Office Action ("Action"), the Examiner rejects claims 1-3, 6-10 and 25-36 under 35 U.S.C. §103(a) as allegedly being unpatentable over Abbasi et al., "Reliable Classification of Chrysanthemum Leaves through Curvature Scale Space" ("Abbasi"). Applicant respectfully traverses this rejection.

In order to support a rejection under 35 U.S.C. §103, the Examiner must establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness three criteria must be met. First, there must be some motivation to modify the cited reference. Second, there must be a reasonable expectation of success. Finally, the combination must teach each and every claimed element. In the present case, claims 1-3, 6-11 and 24-36 are not rendered unpatentable over Abbasi for at least the reason that Abbasi fails to teach or suggest each and every claimed element. More specifically, Abbasi fails to teach or suggest “deriving at least one additional parameter reflecting the shape or mass distribution of the *smoothed version* of the original object outline” as recited in independent claims 1 and 10.

Abbasi discloses a method for semi-automatic classification of 2D shapes based on their curvature scale space (CSS) image representation. According to the method of Abbasi, the classification of leaf images are mainly based on the CSS matching value between the shape of the input image and a number of model images stored in the database. First, Abbasi chooses those model images whose global parameters are sufficiently close to the input image's global parameters and then applies the CSS matching to the surviving models. Abbasi further that that eccentricity of the boundary, circularity of the boundary, and/or the aspect ratio of the CSS image are suitable global parameters. However, Abbasi fails to disclose or suggest that the global parameters are derived from a *smoothed* version of the original object outline as claimed.

The Examiner's rejection appears to be based on the assumption that the global parameters of eccentricity and circularity discussion in paragraph 5 of Abbasi (see

pages 290-291) are derived from the CSS image and therefore are derived from a smoothed version of the original outline as claimed. Although, we agree that the CSS representation of an image is derived from a number of smoothed versions of the original image outline, we strongly disagree with the Examiner's assumption that the eccentricity of Abbasi is derived from the CSS image.

It appears that the Examiner is misinterpreting the text in paragraph 5 of Abbasi. The first sentence of paragraph 5 states "[e]ccentricity, circularity and aspect ratio of the CSS image are suitable global parameters, as they are scale orientation invariant." The Examiner appears to be interpreting this sentence to mean Eccentricity of the CSS image, circularity of the CSS image, and aspect ratio of the CSS image. However, as further indicated by the bold headings in Abbasi, the phrase "of the CSS image" refers only to the aspect ratio. See specifically, the middle of page 291. Accordingly, Abbasi discloses the known concept of eccentricity which refers to the original outline of an image, not the smoothed version. See the discussion on pages 3 and 4 of the present application, which discusses the conventional use of eccentricity.

Independent claims 10, 28, 31, and 33-36 each recite deriving or utilizing eccentricity of a smoothed version of the original object outline. Therefore, claims 10, 28, 31, and 33-36 are patentable over Abbasi for at least the reason that Abbasi fails to disclose or suggest the eccentricity of a smoothed version of the original object outline as claimed (see discussion above with respect to claim 1).

For at least those reasons presented above, Applicant respectfully submits that the Examiner's has not established a *prima facie* case of obviousness because the cited

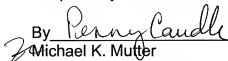
reference does not teach or suggest each and every claimed element. Accordingly, Applicant respectfully withdrawal of the rejection of claims 1-3, 6-10, and 25-38 under 35 U.S.C. 103(a).

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Penny L Caudle Reg. No. 46,607 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.147; particularly, extension of time fees.

Dated: May 19, 2008

Respectfully submitted,

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